IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Bail Application No.2111 of 2006

Rajendraprasad Mishra ..Applicant

vs

State of Maharashtra. ..Respondent

(DCB CID Police Station Mumbai)

Mr. S.V. Vishwakarma for the applicant

Mr. D.S.Mhaispurkar, Addl. Public Prosecutor for the respondent State.

CORAM: KSHITIJ R. VYAS, C.J.

DATE: JUNE 30, 2006.

P.C.:-

The applicant (original accused No.3), who is facing trial for the offences punishable under Sections 465, 466, 467, 471, 475, 418 and 420, read with Section 34 of the Indian Penal Code read with Section 12(1)(b) of the Passport Act, has applied for bail by way of present application. It may be stated that the learned Addl. Sessions Judge, Greater Bombay has rejected his application for bail being Application No.75 of 2006 vide his order dated 16th January, 2006, which is under challenge in this application. The prosecution case is that the

applicant has helped the arrested accused Azad @ Sarang Ali Khan @ Mohd Aziz Rafiq a Pakistani national in procuring a fake school leaving certificate of Baba Tapsidas Baleshwardas Bharshish School, Katangad, Lodopur, Akbarpur, Ambedkar Nagar, U.P.State. It is further alleged that on the basis of the said fake school leaving certificate, said Azad @ Sarang Ali Khan @ Mohd Aziz Rafiq has procured a motor driving licence from R.T.O, Tardeo and thereafter on the basis of the said driving licence obtained a ration card and also opened a bank account in the Corporation Bank,Colaba, Bombay, by producing the forged documents and also got his name included in the voter's list. It may also be noted that the co-accused in the case were released on bail.

2. I have gone through the impugned order passed by trial court and have heard the leaned counsel for the parties. On the previous occasion I called the learned Addl. Public Prosecutor to find out on what ground the co-accused were released on bail. Today, after taking instructions from the concerned investigating officer, he has stated that one of the accused has procured fake passport and another accused has harboured the principal accused, the role played by the present applicant should be considered in the light of the role played by the co-accused. Since the co-accused are released, on the principle of

parity, in my view, the present applicant deserves to be released on bail. However, it is submitted by the learned Additional Public Prosecutor, that since the applicant is not a permanent resident of Mumbai and he belongs to the State of U.P, he is likely to abscond, if released on bail. In my opinion, while considering the aforesaid aspect of the matter, if substantial conditions are imposed, that would serve the purpose of the prosecution. Hence this application is allowed in terms of the following order:

The applicant shall be released on bail on his executing P.R. In the sum of Rs.20,000/- with one local surety in the like amount, on usual terms and conditions with an additional condition that he shall produce his local residential address to the investigating officer and he shall report to the ACB, CID Mumbai, where he will reside till disposal of the case. He shall also report once in a week at the ACB,CID, Mumbai on every Saturday between 11 a.m. and 5.00 p.m. till the disposal of the case. He shall not leave Mumbai without the permission of the investigating officer. Any breach of aforesaid conditions shall be a ground for cancellation of bail. The investigating officer shall be at liberty to apply for cancellation of bail in the event of breach of any of the aforesaid conditions.

CHIEF JUSTICE